Though the forms of bringing action have generally been abolished, as in Ohio, the distinction in substance, not form, between tort and contract, is still considered rudimentary and fundamental. *Holt Ice Co.* v. *Arthur Jordan Co.*, 25 Ind. App. 314, 57 N. E. 575; *Howland* v. *Needham*, 10 Wis. 495. Deceit is a tort action, and though the method of committing the wrong was through the medium of a contract the action is nevertheless one in tort and not contract. *Francisco* v. *Hatch*, 117 Wis. 242, 93 N. W. 1118. It has been held expressly that an action to recover damages for fraudulent representations acted on does not arise on contract. *In re Harper*, 175 Fed. 412. If the suit is to rescind the contract because of fraud and get back the consideration, there is authority that it is an action arising on contract. *May* v. *Disconto Gesellschaft*, 113 Ill. App. 415, 71 N. E. 1001; *Nethery* v. *Belden*, 66 Miss. 490, 6 So. 464. *Contra*. *Ryles* v. *Shelby Mfg. Co.*, 93 Mo. App. 178. But it would seem that such an action properly sounds in quasi-contract on grounds of unjust enrichment. This would differentiate it from both contract and tort. See KEENER, QUASI-CONTRACTS, 198; WOODWARD, QUASI-CONTRACTS, §§ 4, 5, 281. The case seems unsound and is illustrative both of the fading distinction between forms of action in the minds of courts and of a blurred conception of the basic difference between tort and contract.

BILLS AND NOTES — CHECKS — NEGLIGENCE OF DRAWER — YOUNG *VERSUS* GROTE. — The plaintiff's confidential clerk, whose duty it was to prepare checks for signature, presented a check blank as to words of amount but having "£2. 0. 0" in the space provided for figures. The plaintiff signed. The clerk subsequently wrote "one hundred and twenty pounds" in the space provided for words, inserted "1" and "0" on either side of "2," cashed the check for £120 with the drawee-bank, and absconded. The plaintiff sues the bank for the amount charged to his account less £2. *Held*, he cannot recover. *Macmillan* v. *London Joint Stock Bank, Ltd.* [1917] 2 K. B. 439 (C. A.).

For a discussion of this case, see Notes, page 779.

CARRIERS — BAGGAGE — LIABILITY FOR LOSS OF HAND-BAGGAGE. — Before making up plaintiff's lower berth, the porter, an employee of defendant, placed plaintiff's camera in the unused upper berth. Next morning the camera was gone. Plaintiff sues for the value thereof. *Held*, that having assumed charge of the camera, defendant was bound to restore it or account for its loss. *Palmer* v. *Pullman Co.*, 167 N. Y. Supp. 610.

With respect to the personal effects of its patrons, a sleeping-car company is not held to the liability of a common carrier or innkeeper. *Lewis* v. *New York, etc. Co.*, 143 Mass. 267, 9 N. E. 615; *Pullman Co.* v. *Smith*, 73 Ill. 360. *Contra*, *Pullman Co.* v. *Lowe*, 28 Neb. 239, 44 N. W. 226. See 2 HUTCHINSON, CARRIERS, 3 ed., § 1130. Its liability is for negligence, and mere proof of the loss, if unexplained, justifies a recovery on analogy to the doctrine of *res ipsa loquitur*. *Goldstein* v. *Pullman Co.*, 220 N. Y. 549, 116 N. E. 376; *Kates* v. *Pullman Co.*, 95 Ga. 810, 23 S. E. 186. *Contra*, *Springer* v. *Pullman Co.*, 234 Pa. 176, 83 Atl. 98. Hence the question of custody does not assume importance. It is otherwise, however, where a railroad company or other common carrier is defendant in suit, for it is not liable as an insurer where there has been no bailment to it. *Weeks* v. *New York, etc. R. Co.*, 72 N. Y. 50; *Bunch* v. *Great Western R. Co.*, 17 Q. B. D. 215. Where control is not exclusive in either the carrier or the passenger, the authorities are conflicting. See 3 HUTCHINSON, CARRIERS, 3 ed., §§ 1257–65. See also 25 HARV. L. REV. 178, notes 17, 18. On facts similar to the principal case, a carrier has been held liable as an insurer. *Nashville, etc. R. Co.* v. *Lillie*, 112 Tenn. 331, 78 S. W. 1055. It is submitted, however, that in such cases the act of the employee is a mere courtesy, and that strictly there is no bailment to the carrier.